

Chapter 55

Distance Learning Project (DLP)

55-1 General

a. This chapter describes procedures for the operation and administration of the Distance Learning Project (DLP).

b. Congress created the DLP to further military readiness through efficient training and to provide a vehicle by which receivers, other than the National Guard, could benefit from DLP technology through shared use and help offset costs through reimbursement by non-Guard receivers.

c. The Chief, National Guard Bureau (CNGB) has been designated by Congress as the Executive Agent for DLP services.

55-2 Office of Primary Responsibility

The National Guard Bureau (NGB) office of primary responsibility for this agreement is the NGB Director of Command, Control, Communication, and Computers (NGB-J6).

55-3 Administration

a. Supervision and Inspection. The Deputy Chief of Staff for Information Management (DCSIM) and/or the State DLP point of contact (DLP POC), in coordination with the Grants Officer, is/are responsible for making inspections of the DLP sites, as necessary, to determine the extent of compliance with and efficiency of operation under this regulation.

b. Sources of DLP Services. DLP services necessary to meet the needs of the National Guard in the States may be acquired from a variety of sources. These include but are not limited to:

(1) State employees. The State may hire federally reimbursed State employees to accomplish the day to day operations of the DLP activities/sites.

(2) State Contracting. The State may opt to hire a contractor, under its supervision, to operate the National Guard DLP sites consistent with the needs of the National Guard and the provisions of this regulation.

(3) Integration of the National Guard classrooms with state and/or contractor-operated statewide educational DLP networks.

(4) Federal Contracting. Consistent with available funding and at the

request of the TAG, the USPFO may contract federally for the operation of the DLP sites. When this occurs, the need for a cooperative agreement is eliminated, since the State's responsibility to operate the classrooms is being satisfied by the federal government. Due to the supervisory relationships established between a federal contracting officer and a contractor under a federal contract (i.e., the USPFO must direct and provide oversight of the contractor) the USPFO is precluded from contracting on behalf of the state for DLP site operation under the "in kind" provisions of NGR 5-1/ANGI 63-101, Chapter 6-2a(2)(d).

c. Reimbursement of the State for costs associated with the operation of DLP sites will be limited to those costs that are reasonable, allowable, and allocable as determined by the Grants Officer. Personnel cost reimbursement will be limited to the number of state employees established by NGB-ARM. This shall be without regard to the methods and means of operation chosen by the State to operate the DLP network (i.e., state employees or subcontract).

d. Obtaining Telecommunication Resources. Telecommunication resources necessary for the operation of the DLP may also be acquired from a variety of sources:

(1) Federally contracted services. NGB may provide telecommunication services by federal contract. When this is accomplished, it shall be considered in-kind assistance.

(2) State Contracted Services. The State may contract for the necessary telecommunication services on a reimbursable basis.

(3) Any combination of the above.

55-4 Funding Considerations

a. The DLP Cooperative Agreement is currently funded with Operations and Maintenance, Army National Guard (OMNG) funds specifically appropriated for the DLP. As long as Congress continues to fund the DLP by add on of Other Procurement, Army (OPA) funds, OMNG (non DLP) or state funds shall not be used to augment funds provided for the DLP. However, States may procure equipment, with state appropriated funds, to satisfy and/or expand the shared-use role of DLP sites. Federal statutory provisions pertaining to the augmentation of appropriations preclude the State from procuring equipment to satisfy requirements of the National Guard or other federal activities. Federally appropriated DLP funds must be used for DLP authorized purposes and excess funding, if any, must be reported to NGB for reprogramming. Reimbursement for the use of DLP facilities by other Federal Agencies is not program income but reimbursement to the Army National Guard Operation and Maintenance appropriation. Amounts paid directly to the state for shared use of DLP facilities

by a State Agency or any other non-federal user for use of DLP facilities are program income. Funding generated from shared-use, less payments to courseware vendors and military pay and allowances, may be retained in the "State" as reimbursement of Federal Appropriations for use against DLP requirements unless other instructions are provided by NGB-J6.

b. Procurement of equipment (e.g., system expansion, enhancement) is normally accomplished with Other Procurement Army (OPA) funding. OPA funds are available for obligation for a three year period and during that period of availability OMNG funding shall not be used to procure DLP equipment, except where allowed under the expense/investment criteria.

c. Telecommunication funds provided for DLP circuits are intended for such use but may be reprogrammed with NGB concurrence.

55-5 State Operating Budget

a. Annual State Operating Budget Submission.

(1) Each State DLP Program Manager (PM) shall submit an annual budget for DLP activities to NGB-J6.

(2) The State PM shall include all of the requirements necessary to provide adequate DLP services, whether or not funding is currently available to support these requirements. This will allow NGB-J6 to possess a full picture of all financed and unfinanced requirements. The DLP budget submission shall be coordinated with the USPFO prior to submission to NGB.

(3) The DLP budget shall be prepared and submitted in accordance with guidance provided by NGB-J6. Each state shall be provided DLP Annual Funding Guidance (AFG) by NGB-J6. The DLP budget submitted by each state shall be reviewed and subject to the approval of NGB-J6. The State PM in coordination with the USPFO shall break out the AFG by specified budget categories. NGB-J6 may specify funding ceilings or floors for particular budget categories.

b. NGB-J6 shall review all budget submissions by:

(1) Examining the budgets to ensure proper authority for the budgeted line item, for proper AMSCO, and for reasonableness of the proposed funding amount.

(2) Coordinating with the State PM to make necessary alterations, if any discrepancies are found.

c. NGB-J6 shall return the approved budget to the State DLP PMs not later than 15 August ensuring that a copy is provided to the USPFO. The approved budget constitutes the State's DLP budget for the coming fiscal year (FY), consistent with availability of funds. Failure of NGB-J6 to delete items on the State Operating Budget markup that are not authorized federal support does not constitute NGB-J6 approval for federal funding outside the meaning of this regulation and the DLP Appendix 40 to the Master Cooperative Agreement (MCA).

d. Any changes accomplished by the State in its budget during the FY do not require NGB-J6 approval. However, the USPFO must submit a modification to the MCA, Appendix 40 whenever changes to the DLP affect the level of funding, instructions, terms, or conditions.

e. Budget Reconciliation.

(1) The State DLP PM shall reconcile budget amounts with NGB-J6 bi-annually as of 31 December with a due date of 31 January for the closeout of the previous fiscal year and as of 30 June with a due date of 31 July for the status of the current fiscal year by submission of a message in the format detailed below. The report shall explain how the State intends to spend the allocated dollars.

(2) The State shall also submit a similar report when it makes any funding modification to the MCA, Appendix 40.

(3) Report Format:

| NGB-DLP APPROVED | | | OBLIGATION DETAIL | |
|------------------|------------|------------|-------------------|----------|
| AMSCO | AMOUNT | DATE | OBLIGATIONS | OBL DATE |
| XXXXXXXXXX | XXXXXXXXXX | XXXXXXXXXX | XXXXXXXXXX | XXXXXXX |

EXCESS/SHORT FUNDING*

XXXXXXXXXX

* Coordination with the USPFO is required prior to designating funds as excess/short.

55-6 Program Income

a. As required by law, the federal government must be reimbursed for all shared use. Shared use of DLP equipment and facilities generates two types of income:

(1) Reimbursement to an appropriation. Reimbursement by other Federal Agencies, for the use of DLP facilities through an Interservice Service Support Agreement with the USPFO or other appropriate instrument is reimbursement to the Army National Guard Operations and Maintenance Appropriation. It is not

program income. These funds will be added to the cooperative agreement and increase the maximum funding limitations for MCA, Appendix 40.

(2) Program Income. Amounts paid directly to the State for shared use of DLP facilities by a, State Agency, or any other non-federal receiver for use of DLP facilities are program income. The gross income received minus cost of generating the income (e.g., network costs, courseware fees, etc) is net program income. The net program income is added to the cooperative agreement and reported as a state contribution to the cooperative agreement, which is in addition to any required state matching contribution. The addition of program income to the funds committed in a cooperative agreement shall not require an increase in the federal funding contribution.

b. With the exception of payments received for military personnel, states are authorized to retain all fees collected for shared use of National Guard distance learning facilities and equipment. Funds collected must be used solely to defray costs for operation and maintenance of the classrooms without regard to fiscal year in which the income was earned, in accordance with laws and/or cooperative agreement terms. They may not be used for any other purpose.

c. Where permitted by state law, program income should be maintained by the State in a separate state bank account. In the event that state law prohibits establishment of a separate state bank account, the State must submit a request for exception to NGB that outlines a proposed alternate procedure certifying that such procedure permits program income to be utilized without regard to the fiscal year in which the income was earned. Detailed records reflecting receipt and expenditure (e.g., date, purpose, description of purchases) shall be maintained.

d. Interest, if any, accruing to this account will be combined with program income and not otherwise withdrawn for any purpose.

e. It is envisioned that program income will become a significant factor in defraying the cost of equipment and services used in delivery of the DLP product. To accomplish this:

(1) Personnel charged with the responsibility of supervising this program must carefully monitor costs associated with the operation and maintenance of the program in order to maximize program income.

(2) The Grants Officer shall maintain awareness over earned program income and ensure that all program expenses requiring federal reimbursement are reasonable and allocable.

55-7 Method of Funding

The MCA, Appendix 40 shall be fully funded. It is the intention of the NGB that the maximum obligation of NGB, as stated in MCA, Appendix 40, shall be provided in the fiscal year first quarter allotment and increased periodically consistent with the availability of funds.

55-8 Shared Use

a. Enabling legislation for the DLP encourages the use of the DLP sites by non-guard receivers whenever the National Guard is not using the site(s). This is a unique circumstance where non-Guard receivers on a space-available, reimbursable basis can use federally procured equipment, provided for the training of National Guard personnel. All non-Guard use is reimbursable.

b. Shared use is any use of federal DLP resources other than official National Guard use. A shared receiver is any receiver who is not performing official National Guard business. Shared use receivers are classified into one of four profiles:

(1) **DoD Components.** Receivers from other DoD agencies, including all non-Guard military organizations. These receivers are only required to reimburse the federal government for incremental direct costs incurred in providing shared use to these agencies. Reimbursements from these receivers are to reimburse National Guard appropriations and are not program income.

(2) **Non-DoD Federal Receivers.** Federal receivers from other than the Department of Defense. These receivers are only required to reimburse the federal government for incremental direct costs incurred plus any costs for technicians and military personnel in providing shared use to these agencies. Reimbursements from these receivers are to reimburse National Guard appropriations and are not program income.

(3) **Non-Federal Receivers.** Non-Federal receivers, including private organizations. These receivers are required to reimburse the federal government for actual costs incurred by the National Guard to provide the shared use service or the prevailing commercial rate, whichever is higher. A portion of the reimbursements received from these receivers will be used to reimburse National Guard appropriations and the State for facility costs. The remainder (program income) will be retained at state level in a separate, no fiscal year state government account and utilized to support federally authorized DLP requirements at the state level.

(4) **State and local governments.** (applicable only when special or technical services are provided by a DoD entity to state and local governments in accordance with DoD Financial Management Regulation, Volume 11A, Chapter 11). Under the specific circumstances delineated in preceding cited reference these receivers are required to reimburse the federal government for all actual

costs incurred by the National Guard to provide the shared use service. A portion of reimbursements received from these receivers will be utilized to reimburse National Guard appropriations and the State for facility utilization and site operation contractual costs. The remainder will be program income retained at state level in a separate no fiscal year state government account and utilized to support federally authorized DLP requirements at the State level.

(5) All shared receivers may utilize DLP site services including computer and web-based courseware, video teleconferencing (VTC) resources, facilities, productivity tools, and peripheral equipment when they are not required for official National Guard business. Fees charged for the use of these services will be determined based upon the customer's shared use profile.

c. Reimbursement is a two-step process: the collection of funds and the disbursement of payments to eligible claimants (e.g., state, NGB, service providers). The State is responsible for maintaining accurate records to ensure that all costs associated with shared use are identified and collected for subsequent reimbursement and/or accumulation as program income. Use of DLP resources potentially involves participation from all members of the private sector and local communities.

d. It is expected that collection of charges for non-federal receivers will entail the processing of several types of credit card and non-credit card payments.

e. For ease of accounting, it is recommended that the State maintain a separate bank account for deposit of all receipts associated with shared use and that all expenditures are documented consistent with State accounting procedures.

f. Site Rate Worksheets designed to facilitate calculation of auditable rates have been developed and are mandatory for use in establishing rates for each classroom and each potential receiver (DoD components, non-DoD federal, non federal, state and local governments). Current e-forms are available online at <https://gko.ngb.amy.mil>.

g. Reimbursement rates for use of DLP Classrooms will be published annually by NGB-J6 and are included in the computation of site rates in the site rate worksheets.

h. Demonstrations. Consistent with laws, regulations, and the guidance provided herein, USPFOs, as Grants Officers, may approve one-time DLP shared use demonstrations at no charge.

(1) A demonstration is defined as a presentation to prove to a receiver(s)

or potential receiver the capabilities and/or limitations of the DLP (classroom, VTC, etc). Demonstrations are encouraged as a means of educating receivers or potential receivers about current DLP capabilities.

(2) Limitations:

(a) Demonstrations are considered a one-time event where the complete process/activity requirements of a receiver are satisfactorily accomplished.

(b) Additional or multiple demonstrations conducted after the successful completion of an initial demonstration and/or test of the same process/activity for the same receiver, will require reimbursement at the appropriate receiver profile rates.

i. Automated network metering devices, when available, are mandatory for use whenever any receiver is accessing the network. In the event the automated metering devices become temporarily non-operational, manual records with similar data elements collected by the metering device will be maintained by the site operator and input into the automated system when it is again operational. In response to a Usage Metering, Reporting and Verification Specifications Engineering Change Proposal (ECP), provided by JITPD, Program Office Advanced Information Technology Services (PO AITS), is developing an updated manual collection form, automated workstation usage reports, and a validation capability. These new features are currently in development and planned for fielding in the first quarter of calendar year 2005. Until the new features are operational, all classroom usage (all activities occurring in the DLP classroom including VTC's, audio conferences, workstation use) must be reported manually to the Regional Manager on the standardized site usage template or at <http://sass.xservices.com>. All usage is reported in event time and not man-hours. Each event must be reported separately to include the total time for the event, a brief description of the activity, type of organization, number of personnel involved, and how much time each service (VTC, audio conference, workstations) was used. **Example:** Event time, if 20 people participated in a VTC for one hour, it would be reported as one hour of use with 20 participants. All usage must be reported monthly by COB the 15th of the month following the reporting period. Example: November 2004 usage must be reported by December 15, 2004. Once all usage is reported, it is consolidated into a single report and forwarded to the Program Office for approval. Upon approval the final report will be available on DLP website at <http://www.dftp.ngb.army.mil> under the Program Management Section. Until the adoption of the automated system, we request your assistance in providing timely and complete reporting of all site usage.

55-9 Authorized Personnel Charges

- a. NGB-J6 shall provide federal support within funding limitations, for cooperative agreement positions validated by NGB-J1/NGB-ARM or through interim guidance provided by Grants and Cooperative Agreements Policy Letter (GCAPL) 00-18. There is no requirement for cost sharing or matching of funds for these positions. This support shall include funding for salaries and benefits.
- b. Personnel costs, to include validated, identified costs of salary and benefits and contributions to state insurance, retirement, workman's compensation, and FICA, will be in accordance with OMB Circular A-87 and NGR 5-1/ANGI 63-101, Chapter 5.
- c. Payments for salaries and benefits shall be in accordance with the amount allocated in the validated budget. Further, payments for salaries and benefits shall be at a rate consistent with state civilian personnel payments for like State Civil Service positions in that geographical area.
- d. Pay Raises. Pay raises will be consistent with those within the State for all state employees. If a state has a freeze or pay cap on pay raises for state employees, then the State Military Department DLP employees will have corresponding limitations. Raises for DLP employees will not exceed those for other state employees.
- e. Overtime. It is preferred that overtime charges be avoided through optimal scheduling of available personnel. However, regular overtime that is required by the Fair Labor Standards Act (FLSA), based on the work schedule authorized by the State, will be allowed and funded in each budget cycle. When operational requirements or personnel circumstances dictate additional staffing in support of the DLP mission, which cannot be accommodated through work hour changes, the State DLP PM may authorize overtime to satisfy minimum staffing requirements.
- f. Shared Use. All personnel costs, including overtime when applicable, must be included in the rate charged to the shared receiver.
- g. Travel. Payment for travel expenses is authorized at a rate consistent with state regulations for DLP state employees performing duty away from their home stations. Costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered reasonable and allowable only to the extent such costs do not exceed charges normally allowed by the governmental unit in its regular operations as the result of the governmental unit's written travel policy (Joint Travel Regulations). Reference OMB Circular A-87, Attachment B, Paragraph 43.
- h. Training Fees. Training fees are authorized for training directly related to DLP tasks or skills and as pre-approved by the Grants Officer.

i. Federally Approved State Central Personnel Plan (CPP) Expenses. Direct costs allocated to MCA, Appendix 40, under a CPP developed and approved in accordance with OMB Circular A-87, are allowed consistent with the intent of NGR 5-1/ANGI 63-101, Chapter 5. The State will include the applicable portion of the approved State Military Department CPP, for review with their annual financial plan submissions to NGB-J6 showing the USPFO approved allotment. These costs will be funded only if sufficient funds are available within the total MCA, Appendix 40 budget and are validated in the DLP budget by NGB-J6.

55-10 Standards for Employment

This paragraph will contain standards for employment of personnel to manage and operate the State's DLP. This information will be furnished upon completion of a DLP manpower validation study.

55-11 Authorized Employees

This paragraph will contain the number and type of employees authorized to be hired by the State to manage and operate the State's DLP. This information will be provided upon completion of a DLP manpower validation study. Interim authority for the USPFO to reimburse labor costs associated with State operation of DLP sites, consistent with available funding, has been published in separate correspondence.

55-12 System Configuration

Management of the system configuration of DLP assets will be determined by NGB. Recommended configuration changes, for any reason, must be approved by NGB-J6 prior to their implementation. Procedures for processing change requests have been determined and are published in separate guidance. Any change to system configuration, not accomplished in accordance with published NGB guidance, is not authorized and will not be undertaken and shall not be supported with federal funding.

55-13 System Security

Security considerations for the DLP system and its operation have been promulgated by NGB under separate cover. Compliance with these directives by the State and/or its contractor(s) is mandatory.

55-14 DLP Equipment

a. All equipment purchased with federal funds remains the property of the federal government in accordance with 32CFR 32.33.

b. Title to property acquired by the State with State funds or program income vests in the State. With prior USPFO concurrence, The state when acquiring replacement property for property acquired by the state under the cooperative agreement may use the DLP equipment to be replaced as trade-in or sell the equipment and use the proceeds to offset the cost of the replacement equipment. Federally owned equipment is excluded from this process and shall not be sold or traded but disposed of as directed by the USPFO.

c. The State is obligated to use DLP equipment for its intended purpose as long as required by the National Guard, without regard to whether the program continues to be supported with federal funding.

d. When the DLP equipment has reached the end of its useful life or the DLP program is terminated, whichever occurs first, the State will dispose of all federally owned DLP property as directed by the USPFO.

e. Without specific federal statutory authority to the contrary and as long as the federal government retains an interest in the DLP property, the State shall not use DLP equipment acquired with federal funds to provide services to non-federal organizations or individuals for a fee that is less than private companies charge for equivalent services.

f. Transfer of Property to the State. The USPFO will transfer custody of DLP property to the State using DD Form 1149. This property is considered to be government furnished equipment (GFE) consistent with the guidance provided in 32 CFR 33.32(f) and DoD 3210.6-R and title remains vested in the federal government. The state will assume direct responsibility (as defined in AR 735-5 Policies and Procedures for Property Accountability) If the State decides to further decentralize DLP equipment to a contractor or other operator, it must ensure adequate accountability, maintenance, security, and protection from loss, damage, or destruction. In any event, once the property is transferred to the State, the State is fully responsible and accountable for that property until such time as it is properly returned to the USPFO or disposed of IAW federal guidelines.

g. Records.

(1) While in custody of the State, property transferred to the State for DLP Purposes will be adequately maintained and protected from loss, damage, and/or destruction.

(2) The State is required to maintain records that as a minimum include:

(a) Description of the property.

(b) Line item numbers, federal stock numbers, and serial numbers or

other identification numbers.

- (c) Source of the property.
- (d) Holder of the title.
- (e) Acquisition date, if known.
- (f) Cost of the property.
- (g) Percent of federal participation in cost.
- (h) Location of the property.
- (i) Disposition data (date of disposal, sale price), if applicable.

h. Inventory. The State must conduct an annual inventory of the equipment that has been provided to it for DLP purposes and submit a list of property in its custody to the USPFO.

i. The State is responsible to provide for the administration and maintenance of all equipment consistent with the guidance provided in MCA Appendix 40. In the event that the State opts to contract for administration and/or maintenance of equipment, the following guidance must be followed:

(1) A written request must be submitted by the State to the USPFO explaining the need to contract out the requisite administration and/or maintenance of DLP equipment.

(2) Subsequent approval of the USPFO must be obtained.

(3) Irrespective of any contracts for such administration/maintenance, the State must recognize that liability rests clearly with the State and that the federal government must be indemnified against any loss, damage, or destruction of federal property provided to the State for the DLP.

55-15 DLP Property Installed in Non-National Guard Facilities

a. The State, with written approval of the Grants Officer allowing the state to contract out administration of DLP equipment, may opt to install classrooms in other than National Guard facilities (e.g., college/university facilities, high schools etc.) when those facilities contribute materially to access by National Guard personnel or for other cogent mission related reasons. When this situation occurs, the following minimum actions must be accomplished by the State:

b. Site approval. Prior to use of non-federally supported sites, the location must be identified as a National Guard training site in accordance with Chapter 13, ARNG Real Property Operations and Maintenance Activities (RPOMA) and appropriate NGB approvals obtained from the Army Installations Division (NGB-ARI) and the Army Training Division (NGB-ART). Incident to such approval, the site must be added to the Federal Installation Support Plan (FISP). Reimbursement of costs, if any, are contingent upon the level of support authorized that site and the DLP Memorandum of Agreement prepared incident to fielding. Contracting (other than equipment installation) is the responsibility of the State.

c. Once the site has been added to the FISP, the State and NGB must enter into a written formal agreement with the property owner which specifies the terms and conditions (liability, National Guard access requirements, authority for NGB to install the classroom, etc.) that the property owner incurs with the acceptance of DLP classroom equipment. The property owner, prior to classroom installation, must agree to indemnify the federal government against any liability arising from the installation or use of the classroom by other than National Guard personnel. The agreement must specifically address:

- (1) Equipment accountability.
- (2) Maintenance and security procedures.
- (3) Site utilization priorities.
- (4) Operational hours to meet military requirements.
- (5) Rate structure for site utilization.
- (6) Collection and disposition of program income and site use reporting requirements.

d. Equipment Accountability:

- (1) The State will provide custody of the DLP equipment to the owner of the facility in accordance with State procedures.
- (2) The State retains ultimate accountability/responsibility for loss, damage or destruction of DLP equipment.

55-16 Internal Controls

a. Each DLP site must establish an accounting system and internal controls that will provide management at all levels of government with the accurate, complete, and timely financial information needed to make critical decisions. The

purpose of this paragraph is to identify those internal control standards that will assist the State in accomplishing that goal. The accounting system must be responsive to management needs and also provide an audit trail that will allow internal and independent auditors to easily verify that all revenue and expenses are properly controlled and reported.

b. Internal controls are vital to ensuring that the DLP is operated in accordance with federal and State laws, Department of Defense and NGB regulations, and to prevent fraud, embezzlement, theft, and misuse of government assets. Since federal funds were expended initially to place the sites in operation, internal controls must meet the high standards established by the federal government. It is important that the federal government internal control standards be implemented at each site.

c. There are twelve internal control standards established by the Comptroller General; five general, six specific, and one audit resolution standard. The twelve standards include:

- (1) Reasonable assurance.
- (2) Supportive attitude.
- (3) Competent personnel.
- (4) Control objectives.
- (5) Control techniques.
- (6) Documentation.
- (7) Recording of transactions and events.
- (8) Execution of transactions and events.
- (9) Separation of duties.
- (10) Supervision.
- (11) Access to and accountability for resources.
- (12) Prompt resolution of audit findings.

These internal control standards and means of implementation are fully discussed in AR 11-2, Management Control, Appendix B, and Comptroller General Standards for Internal Controls in the Federal Government.